

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.31164 of 2019(O&M)

Date of Decision: 29.10.2019

Jaswinder Singh

...Petitioner

Versus

State of Punjab and Ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

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Present: - Mr. Naresh Gopal Sharma, Advocate for the petitioner.

HARINDER SINGH SIDHU, J.

1. In this writ petition, the petitioner has sought quashing of orders dated 27.09.2019 (Annexure P-2) and 14.10.2019 (P.4) vide which the First and Second Appeals filed by him against the order cancelling his tender for the work of Labour and Cartage of Talwandi Bhai Cluster have been dismissed.

2. Respondent No.1-Department invited E-tenders from the general public for the work of Labour and Cartage in the State of Punjab for Rabi and Kharif seasons 2019-2020 on behalf of all the procurement agencies namely PUNGRAIN, PUNSUP, PUNJAB AGRO AND PSWC etc. The tender for work of Labour and Cartage for Talwandi Bhai Cluster was awarded to Sukhdev Singh and Company. It failed to perform the work and was blacklisted as per Policy.

3. Thereafter a short term tender notice dated 30.04.2019 was issued by the respondent-Department. As per this notice the tenders could be submitted from 30.4.2019 to 02.5.2019. The petitioner submitted the online tender. After evaluation of technical and financial bid, he was declared L-1 and awarded the tender on 03.5.2019. The technical bids of

respondent Nos.6 & 7 were rejected for failure to comply with the provisions of the Labour and Cartage Policy 2019-2020.

4. It is the case of the petitioner that after the award of the tender, he deposited the stipulated security amount, executed an agreement with the concerned agency and commenced work from 04.5.2019. Between 04.5.2019 and 31.5.2019, he unloaded 23, 13, 418 bags and transported 10,23,425 bags from mandis to storage points.

5. Respondent Nos.6 & 7 filed appeals against the rejection of their technical bids and the acceptance of the technical bid of the petitioner and the award of the tender to him. They alleged that the petitioner had failed to comply with the provisions of Labour and Cartage 2019-2020. Both the appeals were partly allowed vide orders dated 27.9.2019 and 14.10.2019 of the First Appellate Authority. The District Tender Allotment Committee (DTC) was directed to cancel the work awarded to the petitioner. Against those orders the petitioner preferred appeal before the Second Appellate Authority, which was dismissed.

6. We have gone through the impugned orders. The tender allotted to the petitioner has been ordered to be cancelled on the ground that the list of trucks uploaded by the petitioner were the same as used by an earlier successful tenderer Davinder Pal for transportation tender of Cluster Ferozepur 25. Reliance was placed on clause 5F and 5A of the Food Grains Labour & Cartage Policy 2019-20 which read as under:

“In case of tenderer applying for cartage, he must possess minimum number of trucks as follows to perform the work of cartage and submit the list of trucks. If the tenderer submits a bid for more than one cluster then the arrangement of the trucks has to be made for each cluster separately.”

“5A“ Tenderer must possess an arrangement of minimum number of trucks required for each cluster if the tenderer submits a bid for more than one cluster then the arrangement of the trucks has to be made for each cluster, separately....”

7. The fact that the list of trucks submitted by the petitioner were the same as used by an earlier successful tenderer for Ferozepur Cluster Sh.Devinderpal has not been disputed by the petitioner. His only contention only is that there is no such bar in the policy and that the work had not suffered on account of this fact.

8. This argument cannot be accepted. Clauses 5 and 5A of the Policy extracted above stipulate that in case a tenderer submits tender for more than one cluster then the arrangement of the trucks has to be made for each cluster separately. What holds good for a single tenderer would equally hold good for two or more tenderers. Thus each tenderer would be required to make arrangement of the trucks separately. The same set of trucks cannot be submitted by more than one tenderer.

9. Thus, there is no merit in the petition and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 29, 2019

Manoj

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No